

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

UNITED STATES OF AMERICA,

Plaintiff

v.

Civil Action No. 5:09CR21-6

MICHAEL CASSANOVA DYSON,

Defendants.

**ORDER CONFIRMING PRONOUNCED ORDER OF THE COURT
DENYING MOTION TO SUBSTITUTE COUNSEL**

At the hearing November 24, 2009, Defendant advised the court there were four reasons he requested new counsel.

- 1) Counsel was not representing Defendant properly and was forcing Defendant to accept a plea agreement which Defendant was in the dark about.
- 2) Defendant was still on house arrest and at the last hearing counsel should have attempted to have the house arrest terminated so Defendant could look for employment.
- 3) Counsel did not get to know Defendant and learn as much about Defendant as he should.
- 4) Defendant just wants a new lawyer.

Defendant's counsel responded that he was prepared to go to trial and was surprised by the motion. Counsel's best guess was the Defendant did not understand his position because the Government's evidence was historical and not the typical audio video evidence.

The Court must consider three things to decide the motion.

- 1) The timeliness of the motion; 2) the adequacy of the Court's inquiry and 3) whether there is such a total breakdown in communication counsel cannot provide an adequate defense.

United States v. Mullen, 32 F.3d, 891, 895 (4th Cir. 1994).

- 1) The Court found the motion untimely. The trial is December 2, 2009;
- 2) Defendant was given the opportunity to state all complaints about his counsel;
and
- 3) There is no breakdown in communication. Defendant simply does not like the outcomes he is facing which includes a prison sentence even if he pleads guilty. The Court would note Defendant is facing a much longer term of imprisonment if he is found guilty.

Motion denied.

The Clerk of the Court is directed to provide a copy of this Order to parties who appear pro se and all counsel of record, as applicable, as provided in the Administrative Procedures for Electronic Case Filing in the United States District Court for the Northern District of West Virginia.

DATED: November 25, 2009

/s/ James E. Seibert
JAMES E. SEIBERT
UNITED STATES MAGISTRATE JUDGE